S.B. Civil Writ Petition No.1994/06
Mahavir Prasad Meena Vs. U.O.I. & Ors.

Date of Order : 21/03/2006

Hon'ble Mr. Justice Ajay Rastogi

Mr. Mukesh Agrawal, for petitioner

The petitioner while holding the post of Head Constable in the Railway Protection Force at Phulera, was charge sheeted for misconduct on 8th December, 1989. In the inquiry, he was found guilty of molesting a woman in a drunken state. As a consequence thereof, he was dismissed from service vide order dt.15th May, 1990. Against which, he approached this court, but the order of penalty has been upheld and attained finality.

Counsel for petitioner contends that even if dismissal has been upheld by this court, still his right of compassionate allowance in terms of Rule 65 of Railway Services [Pension] Rules, 1993 has not been considered by the respondents.

In my opinion, it is the discretion of the authority while passing the order of dismissal or removal from service may consider for grant of compassionate allowance. Looking to the nature of

charge found proved against petitioner which was made to be basis for passing the order of dismissal from service. I do not find any justification to consider the case of the petitioner for grant of compassionate allowance in exercise of Rule 65 of the Rules.

Counsel further submits that the amount, which has been deposited with the Provident Fund Commissioner despite representation, has not been released so far and it has been brought to my notice that representation was submitted on 12th November, 2005. In my opinion, if any amount towards provident fund is due, the petitioner will be at liberty to make further representation or legal notice for demand of justice to the concerned authority, who will decide the same in accordance with law.

With the above observations, the writ petition stands disposed of.

[Ajay Rastogi],J.

FRB